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10/787,507	02/26/2004	Jeffrey R. Bury	MBC-0511	4993
23575	7590	04/21/2010	EXAMINER	
CURATOLO SIDOTTI CO., LPA 24500 CENTER RIDGE ROAD, SUITE 280 CLEVELAND, OH 44145				EGWIM, KELECHI CHIDI
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10787507	2/26/04	BURY ET AL.	MBC-0511

EXAMINER

CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

Dr. Kelechi C.. Egwim

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Commissioner for Patents

The Reply Brief filed 01/19/2010 has been entered and considered.

In the Reply Brief, in the section entitled "Improper Mathematical Calculations Relied Upon by Examiner", Appellant argues that "the mathematical calculations utilized the values denoted in the General Dosage Range in Table A - numbers of which represent a volume of liquid. Thus, the amounts of dispersant (1.6-87%), accelerator (12-98%) and retarder (10.2-53%) represent a volume-to-volume ratio and do not take into account correction for solids content or specific gravity of the liquids. Accordingly, the Examiner improperly calculated the percentage ranges for the three component system of the admixture. The Examiner incorrectly multiplied volumes of liquids, which are not active amounts."

It is noted that the concentrations of each General Dosage for the components of Table A are also listed on the first column in Table A of page 8 in Anderson. The solids concentrations for the fluid dosages of dispersant, accelerator (strength improving additive) and retarder are taught to be 20-30, 30-50, and 10-20, respectively. The solids concentrations are not so different from each other for the ratios calculated from the General Dosage ranges to be significantly different from the ratio of the solid active ingredients, minus any solvents.

To illustrate this, Appellant and the BPAI are redirected to the last column of said Table A, which recites "Primary Active Ingredient Weight Percentages by Cement Weight" for each of the three components in the admixture, each based on 100 part by weight of cement. From this teaching of the solids amount of each component: dispersant, accelerator (strength improving additive) and retarder, relative to the cement, the ratio/percentages of the components in relation to each other and the total of the three components are evident.

For the Dispersant, the lowest amount of dispersant, relative to the total of the three dispersants, can be calculated by dividing the lowest amount of the dispersant by the total of the three components when the other two components are in their highest amounts and the dispersant is in its lowest amount, each amount being added to the same 100 parts of cement.

As such, the lowest % concentration for the dispersant is $0.027/(0.027 + 2.03 + 0.053) \times 100$, which is 1.28%.

The highest concentration being calculated by dividing the highest amount taught for the dispersant in active ingredient weight, with the total of said highest amount of dispersant plus the lowest amounts of the other two components: $0.68/(0.68 + 0.018 + 0.002)$, which is 97%.

The percentages of each of the other two components, the accelerator (strength improving additive) and the retarder, are calculated in

a similar manner.

For the retarder, the lowest concentration is $0.002/(0.002+0.68+2.03) \times 100$, which is 0.07%, and the highest concentration is $0.053/(0.053 + 0.027 + 0.018) \times 100$, which is 54.08%.

Similarly, for the accelerator the lowest concentration is $0.018/(0.018 + 0.68 + 0.53) \times 100$, which is 2.4%, and the highest concentration is $2.03/(2.03 + 0.027 + 0.002) \times 100$, which is 98.6%.

Thus, even in the primary active ingredient solids additive content percentages taught in Table A, based on the admixture of the three additives, the 1.28% to 97%, 0.07% to 54.08%, and 2.4% to 98.6 for the polycarboxylate dispersant, the retarder, and the strength improving additive (the accelerator), respectively, the prior art taught percentages are consistent with the about 5% to about 80%, 0.5% to about 40% and 0.5% to about 40% recited in the appealed claims.

Appellant argues that "Table A does not provide any amounts pertaining to the ratios of the components to one another". However, clearly this is not the case as the amounts in the last three columns of Table A are the amounts of the three additives added to the same amount of cement. Thus, as the amount of the cement to each component is the same, the ratio of the three components is evident, as calculated above. Even the fluid contents disclosed in the dosages are each based on 100 pounds of cement (see bottom of Table A). Thus, the ratios of the additives to each other are contained in the disclosure of Table A in Anderson. Although appellant appears to be misreading the prior art, ¶ 154 clearly states that the "dosages of the component of the high early strength composition of admixtures are summarized in Table A.

The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

/Gregory L Mills/
Supervisory Patent Examiner, Art Unit 1700
Director's Designee for supplemental answers

/Dr. Kelechi C. Egwim/
Primary Examiner, Art Unit 1796

PTO-90C (Rev.04-03)